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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **KESETE BERNANE HINTSA**  
13 87 Park Oxford Place  
San Jose, CA 95136

14 Registered Nurse License No. 610188

15 Respondent.

Case No. 2008-296

**A C C U S A T I O N**

16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
20 Department of Consumer Affairs.

21 2. On or about December 4, 2002, the Board of Registered Nursing issued  
22 Registered Nurse License Number 610188 to Kesete Bernane Hintsa (Respondent). The  
23 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on November 30, 2008, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing  
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

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4. **Section 118, subdivision (b),** of the Code provides that the

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“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof. . .”

## COSTS

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FACTUAL BACKGROUND

11. On or about March 3, 2006, before the Santa Clara County Superior Court, Case No. CC502609, Respondent was convicted on a plea of nolo contendere of violating Vehicle Code Section 23152(b), driving with a blood alcohol level of .08% or more. Respondent was placed on probation for three years. The circumstances surrounding Respondent's conviction is as follows:

a. On or about July 19, 2005, Respondent was stopped by San Jose Police for speeding and an expired registration. Respondent had a strong odor of alcoholic beverage on his breath and slurred his speech. Respondent submitted to a field sobriety test and

1 nearly fell over while performing the leg raise test. Respondent submitted to a preliminary  
2 alcohol screening which revealed Respondent had a blood alcohol level of .131%.

3 12. On or about October 15, 2007, before the Santa Clara County Superior  
4 Court, Case No. CC771678, Respondent was convicted on a plea of nolo contendere of violating  
5 Vehicle Code Section 23152(b), driving with a blood alcohol level of .08% or more. The  
6 circumstances surrounding Respondent's conviction is as follows:

7 a. On or about June 8, 2007, while Respondent was still on probation  
8 for Case No. CC502609, Respondent was stopped by San Jose Police for drifting between lanes  
9 without signaling and driving with a broken brake light. Respondent had a strong odor of  
10 alcoholic beverage on his breath and slurred his speech. Respondent admitted to having 4-5  
11 beers before driving. Respondent submitted to a preliminary alcohol screening which revealed  
12 Respondent had a blood alcohol level of .102%. Respondent submitted to a post arrest breath  
13 test which revealed Respondent had a blood alcohol level of .09%

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct)

16 13. Respondent is subject to disciplinary action under section 2761(a) of the  
17 Code in that he engaged in unprofessional conduct. The circumstances are set forth in paragraph  
18 11-12, above.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Conviction-Substantially Related)

21 14. Respondent is subject to disciplinary action under sections 490 and  
22 2761(f) of the Code in that he was convicted of crimes substantially related to the qualifications,  
23 functions, and duties of a registered nurse. The circumstances are set forth in paragraphs 11-12,  
24 above.

25 **THIRD CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct- Dangerous Use of Alcohol )

27 15. Respondent is subject to disciplinary action under section 2762(b) of the  
28 Code in that he used alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or the public or to the extent that such use impaired his ability to conduct with safety to  
2 the public the practice authorized by his license. The circumstances are set forth in paragraphs 11-  
3 12, above.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct-Conviction Involving Alcohol)

6 16. Respondent is subject to disciplinary action under section 2762(c) of the  
7 Code in that he was convicted of multiple crimes involving the use of alcohol. The  
8 circumstances are set forth in paragraphs 11-12, above.

9 **PRAYER**

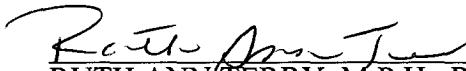
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

12 1. Revoking or suspending Registered Nurse License Number 610188, issued  
13 to Kesete Bernane Hintsu.

14 2. Ordering Kesete Bernane Hintsu to pay the Board of Registered Nursing  
15 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
16 Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: 4/20/08

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22 RUTH ANN TERRY, M.P.H., R.N.  
23 Executive Officer  
24 Board of Registered Nursing  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
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